

SOUTH AUSTRALIA

**BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1967**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# **BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1967**

being

Births, Deaths and Marriages Registration Act, 1967,  
No. 16 of 1967 [Assented to 13 April, 1967]<sup>1</sup>

as amended by

Births, Deaths and Marriages Registration Act Amendment Act, 1972, No. 1 of 1972 [Assented to 16 March 1972]<sup>2</sup>  
Statutes Amendment (Miscellaneous Metric Conversions) Act, 1975, No. 32 of 1975 [Assented to 3 April 1975]<sup>3</sup>  
Births, Deaths and Marriages Registration Act Amendment Act, 1975, No. 96 of 1975 [Assented to 20 November 1975]<sup>4</sup>  
Statutes Amendment (Change of Name) Act, 1980, No. 69 of 1980 [Assented to 13 November 1980]<sup>5</sup>  
Births, Deaths and Marriages Registration Act Amendment Act, 1988, No. 77 of 1988 [Assented to 1 December 1988]<sup>6</sup>

<sup>1</sup> Came into operation (except Part VII) 1 January 1968: *Gaz.* 5 October 1967, p. 1623; Part VII came into operation 13 April 1967: s. 2.

<sup>2</sup> Came into operation 11 May 1972: *Gaz.* 11 May 1972, p. 1759.

<sup>3</sup> Came into operation 15 January 1976: *Gaz.* 15 January 1976, p. 174.

<sup>4</sup> Came into operation 29 January 1976: *Gaz.* 29 January 1976, p. 356.

<sup>5</sup> Came into operation 1 July 1981: *Gaz.* 25 June 1981, p. 1896.

<sup>6</sup> Came into operation 15 December 1988: *Gaz.* 15 December 1988, p. 2009.

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.*

**An Act to consolidate and amend the law relating to the registration of births, deaths and marriages, and the registration of changes of name; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Births, Deaths and Marriages Registration Act, 1967*.

**Commencement**

2. Part VII of this Act shall come into operation on the day this Act is assented to and the remaining provisions of this Act shall come into operation on a day to be fixed by proclamation.

**Repeal**

3. The Acts mentioned in the First Schedule are hereby repealed to the extent therein mentioned.

**Arrangement of Act**

4. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—REGISTRATION OF BIRTHS

PART IV—CHILDREN NOT BORN ALIVE

PART V—REGISTRATION OF MARRIAGES

PART VI—REGISTRATION OF DEATHS

PART VII—REGISTRATION OF DEATHS OF PERSONS DYING OUTSIDE THE STATE  
WHILST ON WAR SERVICE

PART VIII—REGISTRATION OF DEATHS OF PERSONS DYING WITHIN THE STATE  
WHILST ON WAR SERVICE OR DYING AT SEA

PART IX—REGISTRATION OF CHANGES OF NAME

PART X—MISCELLANEOUS

**Interpretation**

5. In this Act, unless the context otherwise requires—

"Adoption of Children Act" means the *Adoption of Children Act, 1925-1943*, and any Act in substitution therefor:

"assistant district registrar" means a person appointed to act as assistant district registrar in any district:

"authorized celebrant" means an authorized celebrant as defined in the *Marriage Act 1961*, of the Commonwealth:

3.

"child" when used without qualification means a child born alive. A child shall be deemed to have been born alive if the child's heart has beaten after the child has been completely expelled or extracted from its mother:

"child not born alive" means a child whose heart has not beaten after its complete expulsion or extraction from its mother and who is either—

(a) where the period of its gestation is reliably ascertainable, a child of not less than twenty weeks gestation;

or

(b) in any other case, a child weighing not less than four hundred grams at birth:

\* \* \* \* \*

"deputy registrar" means the Deputy Registrar of Births, Deaths, and Marriages:

"district" means a district created under or continued by this Act:

"district registrar" means a district registrar of births, deaths and marriages appointed for a district:

"Minister" means the Minister of the Crown to whom, for the time being, the administration of this Act is committed by the Governor:

"occupier of the building or place" means the principal occupier for the time being of any building or place, and, in the case of a prison, gaol, hospital, mental hospital, or other public or charitable institution, the principal officer or the person in actual charge thereof:

"parent" means the father or mother, or where both the father and mother are dead, the guardian of the child, or where a person is the legal guardian of the child to the exclusion of the parent or parents, the legal guardian of the child:

"person" when used without qualification shall be deemed to exclude reference to a child not born alive:

"principal registrar" means the Principal Registrar of Births, Deaths, and Marriages:

"registered midwife" means any person registered as a midwife pursuant to the *Nurses Registration Act, 1920-1966*:

"repealed Act" means any Act repealed by this Act, or any other repealed Act relating to the registration of births, deaths or marriages:

"undertaker" includes any person having charge of the burial of any dead body.

*Note: For definition of divisional penalties see Appendix 2.*

PART II

ADMINISTRATION

**Principal registrar**

6. (1) The Governor may appoint a Principal Registrar of Births, Deaths, and Marriages and may appoint a Deputy Registrar of Births, Deaths, and Marriages.

\* \* \* \* \*

(3) The persons holding the offices of Principal Registrar of Births, Deaths, and Marriages and Deputy Registrar of Births, Deaths, and Marriages at the commencement of this Act shall, without any further appointment, be respectively the Principal Registrar of Births, Deaths, and Marriages, and the Deputy Registrar of Births, Deaths, and Marriages.

(4) Any reference in any Act to the Registrar-General of Births, Deaths and Marriages shall be deemed to be a reference to the principal registrar.

(5) In the event of the absence, through illness or otherwise, of the principal registrar, or of a vacancy in the office of principal registrar, the deputy registrar shall exercise all the powers and shall perform all the duties and functions of the principal registrar during the absence or vacancy, and shall, in the exercise of those powers, be subject to the same liabilities, penalties and forfeitures as the principal registrar.

**Office for keeping general register**

7. The Minister may appoint any premises as the office for keeping the general register of births, deaths, marriages and changes of name.

**Districts**

8. (1) The Governor may by proclamation divide the State into districts for the purpose of this Act, and may by proclamation revoke or alter any such proclamation.

(2) The districts existing pursuant to any repealed Act at the commencement of this Act shall, until revoked or altered by proclamation, be districts for the purposes of this Act.

**District registrars**

9. (1) The Minister may appoint any person to be the district registrar for any district.

(2) The principal registrar may appoint any person to be an assistant district registrar for any district.

(3) Any person who at the commencement of this Act was under any repealed Act a district registrar for any district shall without any further appointment continue to be the district registrar for that district.

(4) Any person who at the commencement of this Act was under any repealed Act an assistant registrar for any district shall without any further appointment be an assistant district registrar for that district.

### **Administration of Act**

10. Subject to the directions of the Minister, the principal registrar shall be charged with the general administration of this Act.

### **Delegation**

11. (1) The principal registrar may delegate to the holder of the office of deputy registrar or the holder of any other office or position a power, function or duty conferred or imposed on the principal registrar by or under this or any other Act.

(2) The district registrar for a district may delegate to the holder of the office of assistant district registrar for the district a power, function or duty conferred or imposed on the district registrar by or under this or any other Act.

(3) A delegation under this section—

- (a) must be made by instrument in writing;
- (b) authorizes any person who is or becomes holder of the office or position specified in the instrument of delegation to act pursuant to the delegation;
- (c) may be made subject to conditions specified in the instrument of delegation;
- (d) may authorize sub-delegation of a power, function or duty;
- (e) is revocable at will by the delegator;
- (f) does not prevent the delegator from acting personally in any matter.

(4) The principal registrar is bound by any direction of the Minister requiring or relating to a delegation under this section.

(5) A district registrar is bound by any direction of the principal registrar requiring or relating to a delegation under this section.

(6) In any proceedings a certificate purporting to be signed by the principal registrar or a district registrar certifying a matter relating to a delegation by the principal registrar or district registrar under this section constitutes, in the absence of proof to the contrary, proof of the matter certified.

### **Requirements on furnishing particulars**

12. (1) Every person by whom any particulars are furnished for the registration of any birth or death shall furnish the particulars in an information statement in the manner prescribed by or pursuant to this Act, and shall either sign or attest his name and place of abode in the information statement and shall certify that the particulars so furnished are correct to the best of his knowledge and belief.

(2) The information statement shall, as soon as practicable, be forwarded to the principal registrar, district registrar, or assistant district registrar, as the case may be.

(3) When the information statement is received by a district registrar or an assistant district registrar he shall, within seven days, forward the information statement to the principal registrar.



6.

(4) When the information statement is received by the principal registrar he shall forthwith register the birth or death in the manner prescribed by or pursuant to this Act, and shall within seven days forward a duplicate of the registration to the district registrar of the district in which the birth or death took place. The district registrar shall, as soon as practicable, record the registration in the district register of births or deaths.

(5) Within one month after a certificate of registration of a birth has been entered in the register in the office of the principal registrar, the principal registrar shall notify the person by whom the particulars were furnished for the registration of the birth, that the birth has been duly registered.

(6) The birth of any person shall be deemed to have been registered on the day of the receipt by the principal registrar, district registrar or assistant district registrar of an information statement to register the birth of that person.

\* \* \* \* \*

PART III

REGISTRATION OF BIRTHS

**Duty of occupier of premises to notify birth**

14. (1) The occupier of the premises in which a child is born whether or not the child was born alive, shall, within seven days after the birth, furnish to the principal registrar notice of the birth together with such of the following particulars as are within the knowledge of or are ascertainable with accuracy by the occupier:—

- (a) Whether the child was born alive or not:
- (b) The date and place of the birth:
- (c) The sex of the child:
- (d) The full names and usual place of residence of the mother of the child:

and

- (e) The full names and usual place of residence of the medical practitioner or other person who was in attendance on the mother during her confinement.

(2) Where a child is not born in any premises, but is admitted to premises shortly after birth, this section applies as if the child had been born in the premises to which the child had been so admitted.

\* \* \* \* \*

**Duty of parent**

15. (1) The parent of every child born alive in the State shall, within sixty days from the date of birth, furnish or cause to be furnished prescribed particulars for the registration of the birth.

\* \* \* \* \*

**Duty of occupier where parent absent, dead, etc.**

16. Where, owing to the death, absence, or inability of the parent of any child born in the State, registration of the birth has not been effected in accordance with the provisions of this Act, the occupier of the premises where the child was born, shall, within sixty days after the birth, furnish prescribed particulars for registration of the birth.

**Registration of birth of children born at sea**

17. (1) If a child is born at sea whose parents ordinarily reside in the State, the birth may be registered in the State by a parent of the child in manner provided by this Part for the registration of children born within the State.

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**Notification required where new-born child found exposed**

18. Where any new born child is found exposed, the person who discovers the child shall report the discovery to the member of the police force in charge of the nearest police station, who shall furnish to the principal registrar such particulars as have come to his knowledge in respect of the child.

**Registration of illegitimate child**

19. (1) In the case of the birth of a child born out of lawful marriage, the mother of the child shall furnish or cause to be furnished the particulars required by section 15 of this Act.

(2) On registering the birth of a child born out of lawful marriage the principal registrar shall, except in the circumstances mentioned in subsection (4), of this section enter the words "paternity not acknowledged" in the column of the certificate for the name of the father.

(3) Where a child is born out of lawful marriage—

(a) the mother need not furnish particulars relating to the paternity of the child;

but

(b) where, in the form completed by the mother, a person is named as father of the child, and the appropriate certificate contained in the form is not completed by the father, the principal registrar shall serve personally or by post upon the person alleged to be the father of the child, a copy of the form as completed by the mother accompanied by a notice in writing addressed to the alleged father inviting him to acknowledge that he is the father of the child.

(4) Subject to this section, the name of a person shall not be entered in a register as father of the child unless—

(a) he has, in the form furnished by the mother in pursuance of this section, acknowledged that he is the father of the child;

or

(b) he has, in response to an invitation addressed to him under subsection (3) of this section, acknowledged within thirty days after the date of the invitation that he is the father of the child.

(5) If in proceedings for registration of the birth of a child born out of lawful marriage the paternity of the child is not acknowledged, but the principal registrar is satisfied that the paternity of the child has been established by an affiliation order or otherwise by a decree of a court of competent jurisdiction, the principal registrar shall cause to be entered in the register of births the name of the father of the child. The principal registrar shall give notice of the entry to the district registrar having the custody of the register in which the birth is entered who shall endorse in the relative entry a copy of the entry made by the principal registrar.

(6) The principal registrar, a district registrar or assistant district registrar shall, as occasion requires, bring the provisions of this section and of Part VI of the *Marriage Act 1961*, of the Commonwealth to the notice of every informant of the birth of any child born out of lawful marriage.

(7) The parent of a person legitimated under the *Marriage Act 1961* of the Commonwealth shall, within three months after the date of the legitimation, furnish the principal Registrar with a notice of the legitimation in a form stipulated by the principal Registrar.

(8) The principal Registrar shall, upon receipt of a notice under subsection (7) of this section—

(a) endorse on the register a note of the legitimation;

or

(b) re-register the birth of the legitimated person in the same form as if he had been born within marriage.

**Registration in cases where birth not registered within prescribed time**

**20.** (1) Where the provisions of sections 15, 16 or 17 of this Act have not been complied with, the birth of any person shall not be registered except as follows:—

(a) The birth may be registered within a period of six months from the date of birth of the child by the principal registrar after the parent or some person present at the birth furnishes the particulars required in accordance with this Part, and makes a declaration in the prescribed form.

(b) The birth may be registered after six months but not after seven years from the date of birth of the child by the principal registrar if the parent of the child or some person with knowledge of the birth furnishes the prescribed particulars, and the principal registrar is satisfied that the particulars so furnished are correct; for the purposes aforesaid the principal registrar may require any documents in evidence relating to the birth to be produced to him.

(c) No birth shall be registered after the expiration of seven years from the date of birth of the child unless a Judge of the Supreme Court, or Local Court, or a Stipendiary Magistrate, makes a written order authorizing the principal registrar to register the birth. The order shall contain the necessary particulars for the registration of the birth.

\* \* \* \* \*

**Entry of child's surname in register**

**21.** (1) Subject to this section, the name to be entered in the register of births as the surname of a child is the surname of either of the parents, or a combined form of the surnames of both parents, of the child as nominated by the parents when furnishing the particulars required for registration of the birth.

(2) In default of nomination by the parents as referred to in subsection (1), the name to be entered in the register as the surname of the child is—

(a) the surname of the father of the child in the case of a child born in lawful marriage, or the surname of the mother in the case of a child born out of lawful marriage;

or

10.

(b) such name as a local court of limited jurisdiction may, on application by a parent of the child, direct.

(3) An application for a direction of a court under subsection (2) must be made within 28 days after receipt by the principal registrar of the particulars required for registration of the birth.

(4) In determining an application for a direction under subsection (2), the welfare and interests of the child must be the paramount consideration of the court.

\* \* \* \* \*

PART IV

CHILDREN NOT BORN ALIVE

**Duty of medical practitioner where child is not born alive**

**25.** (1) Where a child is not born alive, the medical practitioner who was in attendance on the mother at the time of her confinement shall sign a medical certificate of cause of perinatal death in the prescribed form, stating to the best of his knowledge and belief the particulars stated in the certificate, and shall within forty-eight hours after such confinement forward the certificate to the principal registrar.

(2) After he has signed the certificate referred to in subsection (1) of this section the medical practitioner shall sign a notice in the prescribed form and deliver the notice to the occupier of the premises where the birth took place, who shall deliver it to the person disposing of, or responsible for the disposal of, the body of the said child.

(3) A person shall not dispose of the body of a child not born alive unless—

(a) he has received the notice required under subsection (2) of this section;

or

(b) the disposal is authorized in writing by a member of the police force not under the rank of sergeant, who has personally made inquiries into the circumstances relating to the birth.

(4) Any person who disposes of the body of a child not born alive shall forthwith forward to the principal registrar either the notice required under subsection (2) of this section or the authorization referred to in paragraph (b) of subsection (3) of this section.

**Transitional provisions re still births**

(5) Until the coming into operation of this Act the provisions of Part IV of the *Births and Deaths Registration Act, 1936*, dealing with the registration of still births shall, notwithstanding the repeal of that Act by this Act, continue in force and have effect as if enacted in this Act.

PART V

REGISTRATION OF MARRIAGES

**Duty of principal registrar upon receipt of certificate of marriage**

**26.** (1) When the principal registrar receives an official certificate of marriage from an authorized celebrant under the provisions of the *Marriage Act 1961*, of the Commonwealth or any amendment of that Act, he shall, as soon as practicable, enter the certificate in the General Register of Marriages.

(2) The principal registrar shall, within seven days of the receipt of the official certificate, cause a copy to be made and forwarded to the district registrar of the district in which the marriage was solemnized.

(3) When the district registrar receives the copy he shall as soon as practicable enter the copy in the District Register of Marriages.

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PART VI

REGISTRATION OF DEATHS

**Notification of deaths**

**29.** (1) In the case of a death occurring in any building or place, the occupier of the building or place shall, within fourteen days thereafter, furnish or cause to be furnished prescribed particulars for the registration of the death.

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**Notification of deaths on ships and planes**

**30.** (1) Where a person dies—

(a) in an aircraft during a flight to an airport in the State;

or

(b) on a ship during a voyage to a port in the State,

the person in charge of the aircraft or of the ship, as the case may be, shall, as soon as practicable, after the arrival of the aircraft at an airport or of a ship at a port in the State, report the death to a coroner.

(2) Where the death of any person is reported to the coroner under the provisions of subsection (1), of this section the coroner shall make such inquiries as he considers reasonable to inform himself correctly of the identity of the person, the cause of death and the place at which the death occurred, and, shall furnish to the principal registrar such of the particulars contained in the information statement in relation to the person as he has been able to ascertain, and the cause of death. The principal registrar shall thereupon register the death.

**Late registration of death**

**31.** (1) When the provisions of section 29 of this Act have not been complied with, the death of any person shall not be registered except as follows:—

(a) Where particulars are furnished by a coroner under section 30 or section 33 of this Act the death shall be registered:

(b) The death may be registered within a period of six months from the date of death of the person by the principal registrar after the occupier of the premises where the death occurred or some other person furnishes the particulars required in accordance with this Part and makes a declaration in the prescribed form:

(c) The death may be registered after six months but not after seven years from the date of death of the person by the principal registrar if some person with knowledge of the death furnishes the particulars required in accordance with this Part and makes a declaration in the prescribed form and the principal registrar is satisfied that the particulars so furnished are correct; for the purposes aforesaid the principal registrar may require any documents in evidence relating to the death to be produced to him:

and



- (d) No death shall be registered after the expiration of seven years from the date of death of the person unless a Judge of the Supreme Court, or Local Court, or a Stipendiary Magistrate makes a written order authorizing the principal registrar to register the death. The order shall contain the necessary particulars for the registration of the death.

\* \* \* \* \*

(3) The death of any person shall be deemed to have been registered on the day of receipt by the principal registrar, district registrar or assistant district registrar of an information statement to register the death provided that a medical certificate of the cause of death of that person or a copy of a coroner's order for burial pursuant to section 34 of this Act has been received by the principal registrar, district registrar or assistant district registrar on or before that day.

**Notification of finding of body**

**32.** In the event of any person finding any dead body he shall forthwith notify a member of the police force, who shall forthwith notify a coroner.

**Notification of result of inquest inquiries**

**33.** (1) Where a coroner exercises jurisdiction in respect of the death of any person he shall after due inquiry notify the principal registrar of the death and the cause thereof and shall furnish such other particulars as are required in accordance with this Part to be furnished in an information statement concerning the death.

(2) Upon receipt of the notification and particulars the principal registrar shall forthwith register the death.

(3) If, after notification of the death, an inquest is held into the death the coroner shall notify the principal registrar of his decision or finding and the principal registrar shall if necessary alter the register to accord with the decision or finding which alteration shall be signed by him and marked with the date upon which the alteration was made.

(4) Where a coroner or justice of the peace certifies under paragraph (III) of section 5 of the *Cremation Act, 1891-1964*, that the cause of a death has been duly inquired into and that no further examination of the body is necessary, the death may be registered before the decision or finding is given but the coroner or justice shall, as soon as the decision or finding is given, notify the principal registrar of the decision or finding and furnish him with such particulars relating to the death as are required to be furnished in an information statement in accordance with this Part, and the principal registrar shall thereupon insert in his records relating to the registration of the death such particulars as are appropriate including the cause of the death.

**Coroner may order burial**

**34.** A coroner holding an inquest or inquiry upon any dead body may order the body to be buried. A copy of such order shall be forwarded to the principal registrar together with a statement signed by a coroner setting forth the cause of death or that the cause of death is unknown and further inquiry is necessary.

**Circumstances in which death may be registered**

35. Except as is otherwise expressly provided in this Part, a death shall not be registered by the principal registrar, a district registrar or an assistant district registrar unless there has been produced to him in relation to the deceased person either—

(a) a certificate referred to in paragraph (a) of subsection (1) of section 39 of this Act;

or

(b) a copy of the order and statement referred to in section 34 of this Act.

**Death may be registered if cause of death unknown**

36. (1) Where an order is made by a coroner under the provisions of section 34 of this Act stating that the cause of death is unknown and that further inquiry is necessary to establish the cause of death, the death may be registered by the principal registrar.

(2) When a coroner has completed his inquiry he shall notify the principal registrar of the cause of death. The principal registrar shall thereupon enter the cause of death in the registration certificate.

(3) Any certified copy of the death registration or any extract therefrom issued before the cause of death has been entered, shall be endorsed with the words "Incomplete Registration—Cause of Death unknown pending coronial inquiry".

**Burials**

37. A person shall not bury any dead body or cause any dead body to be buried unless he has received—

(a) a notice referred to in paragraph (b) of subsection (1) of section 39 of this Act;

or

(b) an order referred to in section 34 of this Act.

**Non-application to cremations**

38. Nothing in sections 34, 35 or 37 of this Act shall apply to any cremation, in which case the requirements of the *Cremation Act, 1891-1964*, shall be complied with.

**Duty of medical practitioner**

39. (1) Every legally qualified medical practitioner who has attended the last illness of any deceased person, or who has attended a child who has died within twenty-eight days after birth, or who has made a post-mortem examination of the body of any such person or such child after death, shall, within forty-eight hours after such death—

(a) sign a medical certificate of cause of death or a medical certificate of cause of perinatal death of a child dying within twenty-eight days after birth, whichever is appropriate in the prescribed form and deliver or forward the certificate to the principal registrar;

and

- (b) sign and deliver or forward to the person required by section 29 to furnish particulars for the registration of the death a notice in the prescribed form,

except that in all cases of sudden unexpected death, or where it has come to the knowledge of the medical practitioner that the death has occurred from unnatural causes or under any circumstances of suspicion, or where he is unable to certify the cause of death, he shall not issue any such certificate or notice, but report the case to the coroner.

(2) Any legally qualified medical practitioner who—

- (a) refuses or neglects to sign, deliver or forward any such certificate or notice;
- (b) signs, delivers or forwards any such certificate or notice which is lacking in any material particular as to which he has knowledge;
- (c) signs, delivers or forwards any such certificate or notice where he is required by this section to report the death to the coroner;

or

- (d) knowingly makes any false statement in any such certificate or notice,

shall be guilty of an offence.

Penalty: Division 9 fine.

(3) The person required by section 29 of this Act to furnish particulars for the registration of a death, or the person referred to in section 37 of this Act who buries any dead body, shall, when furnishing particulars or when the burial has taken place, as the case may be, deliver or forward the notice to the principal registrar, district registrar or assistant district registrar.

(4) Any person who by virtue of any regulation made pursuant to the *National Security Act 1939-1940*, of the Commonwealth, as amended, is authorized or licensed to practise as a medical practitioner or to practise medicine in South Australia or any part thereof, shall during such time he is so authorized or licensed to practise, be deemed to be a legally qualified medical practitioner for the purposes of this section and, notwithstanding section 33 of the *Medical Practitioners Act, 1919-1955*, as amended, any such person shall, during the time aforesaid, be qualified to give a certificate of cause of death.

**Duty of undertaker after burial, etc.**

**40.** (1) Every undertaker or other person who carries out the burial, cremation, or other disposal of any dead body shall, within seven days after the burial, cremation or disposal, cause to be transmitted to the principal registrar a certificate in the prescribed form which shall be signed by the undertaker or person and countersigned either by the clergyman or other officiating person at the burial, cremation or disposal or by two reputable witnesses of the burial, cremation or disposal.

(2) Every undertaker or other person who fails to comply with this section shall be guilty of an offence.

Penalty: Division 9 fine.

(3) Upon receipt of any certificate as aforesaid, the principal registrar shall cause to be included in the certificate of registration of the death of the deceased person to which the first-mentioned certificate applies, particulars of the place and date of the burial, cremation or other disposal of the body of the deceased.

PART VII

REGISTRATION OF DEATHS OF PERSONS DYING OUTSIDE THE  
STATE WHILST ON WAR SERVICE

**Definition of "war service"**

**41.** (1) In this Part and in Part VIII of this Act "war" means any hostilities in which the naval, military or air forces of the Commonwealth are engaged or any operation in which the police forces of the Commonwealth or the State are engaged as part of a United Nations force.

(2) For the purposes of this Part a person shall be deemed to be engaged on War Service—

(a) if he is engaged outside the State as a member of any naval, military, or air force of the Commonwealth or of any other part of the British Commonwealth during any war in which the Commonwealth is engaged;

or

(b) if, during any such war, he is engaged on service outside the State in connection with any nursing service, voluntary aid detachment, red cross society, ambulance association or any similar body or organization attached to or accompanying any such force as is described in paragraph (a) hereof;

or

(c) if, during any such war, he is engaged on service outside the State as a representative attached to or accompanying any such force as is described in paragraph (a) hereof, of any organization which is providing philanthropic, welfare or medical services for members of that force;

or

(d) if, in connection with any such war, he is a prisoner of war in an enemy country or is interned in the country of a neutral power;

or

(e) if he is engaged on service outside the State in connection with any operation in which the police forces of the Commonwealth or the State are engaged as part of a United Nations force.

(3) For the purposes of this Part, a war shall be deemed to continue from the commencement thereof until the day on which a proclamation is issued by the Commonwealth declaring that the war has ceased.

**Registration of persons dying on War Service**

**42.** (1) If the principal registrar is satisfied—

(a) that any person has died (whether before or after the passing of this Act), at any place outside the State whilst engaged on war service;

and

- (b) that prior to engaging in such war service the said person's usual place of residence was within the State,

the principal registrar may, subject to compliance with this Part, register the death of that person.

(2) The principal registrar shall not register the death of any person as aforesaid unless the principal registrar is supplied with a certificate given by some officer who the principal registrar is satisfied is the officer in charge of the proper records of any naval, military or air force of the Commonwealth or any other part of the British Commonwealth or any police force of the Commonwealth or the State, that the said person has died at a place outside the State whilst engaged on war service.

(3) If the principal registrar is supplied with a certificate of a competent authority within the meaning of the National Security (Supplementary) Regulations made under the *National Security Act 1939-1940*, of the Commonwealth, that any person whilst engaged on war service outside the State became missing on a particular date and is for official purposes presumed to be dead, the principal registrar may (whether the certificate aforesaid was given before or after the passing of this Act) register the death of the said person.

(4) Upon registering any death as aforesaid, the principal registrar shall make a memorandum in the certificate of registration to the effect that the death is registered pursuant to this Part.

**Sufficiency of certificate**

**43.** A statement in such a certificate as mentioned in subsection (2) of section 42 of this Act to the effect that the person named therein has died may, in the absence of any evidence to the contrary, be accepted for the purpose of registration pursuant to this Part as sufficient evidence of the death of that person, and a statement in such a certificate as mentioned in subsection (3) of section 42 of this Act to the effect that the person named therein became missing on a particular date and is for official purposes presumed to be dead may, in the absence of any evidence to the contrary, be accepted for the purpose of registration pursuant to this Part as sufficient evidence of the death of that person on the date he became missing.

**Particulars and filing of certificate of registration**

**44.** (1) The person applying for the registration of the death of any person pursuant to this Part shall state, to the best of his knowledge and belief, the several particulars concerning the person whose death is sought to be registered as are required to be furnished pursuant to section 29 of this Act.

\* \* \* \* \*

(3) The certificate of registration shall be made out in duplicate.

(4) One of the copies shall be filed in the office of the principal registrar and the other shall be filed in the office of the district registrar of the district in which was situated the usual place of residence prior to engaging on war service of the person to the death of whom the certificate of registration relates.

**Application of other provisions of this Act**

**45.** The provisions of section 31 of this Act shall not apply to the registration of a death pursuant to this Part, but except as aforesaid, the provisions of this Act shall *mutatis mutandis* apply to and with respect of every such registration.

PART VIII

REGISTRATION OF DEATHS OF PERSONS DYING WITHIN THE  
STATE WHILST ON WAR SERVICE OR DYING AT SEA

**Continuance of war**

**46.** For the purposes of this Part, a war shall be deemed to continue from the commencement thereof until the day on which a proclamation is issued by the Commonwealth declaring that the war has ceased.

**Registration of deaths of members of armed forces**

**47.** (1) If—

(a) any member of any naval, military or air force of the Commonwealth or of any other part of the British Commonwealth;

or

(b) any person serving with any nursing service, voluntary aid detachment, red cross society, ambulance association or any similar body or organization attached to or accompanying any such force as is described in paragraph (a) hereof;

or

(c) any person being a representative attached to or accompanying any such force as is described in paragraph (a) hereof, of any organization which is providing philanthropic, welfare or medical services for members of that force;

or

(d) any member of any naval, military or air force of any country allied or associated with Her Majesty for the purposes of the prosecution of any war in which the Commonwealth is engaged;

or

(e) any person engaged in connection with any operation in which the police forces of the Commonwealth or the State are engaged as part of a United Nations force,

dies or has died (whether before or after the passing of this Act) within the State during the continuance of any war in which the Commonwealth is engaged or within a period of twelve months after any such war has ceased, the principal registrar may register the death of that person as provided by this Part.

(2) Any such death may be registered if the principal registrar is supplied with—

(a) a certificate in the prescribed form or in a form substantially to the same effect of a person who the principal registrar is satisfied is a medical officer of any such naval, military or air force;

or



- (b) a certificate of some officer of any such naval, military or air force or police force who the principal registrar is satisfied is the officer in charge of the proper records of such naval, military or air force, or police force, that the said person has died within the State whilst a member of such force.

(3) Notwithstanding the provisions of section 39 of this Act and of section 33 of the *Medical Practitioners Act, 1919-1955*, as amended, any certificate such as is described in paragraph (a) of subsection (2) of this section may be given by any such medical officer although he is not registered as a medical practitioner under the *Medical Practitioners Act, 1919-1955*, as amended, or is not otherwise qualified in accordance with section 33 of that Act to give a certificate of cause of death.

(4) If the principal registrar is supplied with a certificate of a competent authority within the meaning of the National Security (Supplementary) Regulations made under the *National Security Act 1939-1940*, of the Commonwealth, as amended, that any person such as is described in paragraphs (a), (b) or (c) of subsection (1) of this section became missing within the State on a particular date and is for official purposes presumed to be dead, the principal registrar may (whether the certificate aforesaid was given before or after the passing of this Act) register the death of the said person.

#### **Registration of person dying at sea**

**48.** (1) If the principal registrar is satisfied that any person has died (whether before or after the passing of this Act) whilst at sea on any British or Australian ship during the continuance of any war in which the Commonwealth is engaged, the principal registrar may register the death of that person as provided by this Part.

(2) Any such death may be registered if the principal registrar is supplied with a certificate of some person who the principal registrar is satisfied is the master of the ship or a duly qualified medical practitioner carried as part of the complement of the ship, that the deceased died whilst at sea on a British or Australian ship during the continuance of any such war.

#### **Endorsement of certificate**

**49.** Upon registering any death as provided by this Part, the principal registrar shall make a memorandum in the certificate of registration to the effect that the death is registered pursuant to this Part.

#### **Sufficiency of certificate**

**50.** A statement in any certificate such as is mentioned in subsection (2) of section 47 or in section 48 of this Act to the effect that the person named therein has died may, in the absence of any evidence to the contrary, be accepted for the purpose of registration pursuant to this Part as sufficient evidence of the death of that person, and a statement in a certificate such as is mentioned in subsection (4) of section 47 of this Act to the effect that the person named therein became missing on a particular date and is for official purposes presumed to be dead may, in the absence of evidence to the contrary, be accepted for the purpose of registration pursuant to this Part as sufficient evidence of the death of that person on the date he became missing.

#### **Particulars and filing of certificate of registration**

**51.** (1) The person applying for the registration of the death of any person pursuant to this Part shall state, to the best of his knowledge and belief, the several particulars concerning the person whose death is sought to be registered as are required to be furnished pursuant to section 29 of this Act.

23.

\* \* \* \* \*

(3) The certificate of registration shall be made out in duplicate.

(4) One of the copies shall be filed in the office of the principal registrar and the other shall be filed in such place as the principal registrar shall direct.

**Application of other provisions of this Act**

**52.** The provisions of section 31 of this Act shall not apply to the registration of a death pursuant to this Part, but except as aforesaid, the provisions of this Act shall *mutatis mutandis* apply to and with respect of every such registration.

PART IX

REGISTRATION OF CHANGES OF NAME

**Change of name**

**53.** (1) A person who has attained the age of eighteen years, or who is or has been married, may, in the prescribed manner, change his name.

(2) A parent of a child may, subject to subsection (3) of this section, in the prescribed manner, change the name of the child.

(3) A parent of a child is not entitled to change the name of the child—

(a) unless—

(i) there is no other surviving parent of the child, or there is another surviving parent of the child and that other parent has consented to the change of name;

or

(ii) a local court of limited jurisdiction has authorized the change of name;

and

(b) where the child is of or above the age of twelve years—unless the child has consented to the change of name.

(4) In authorizing a change of name under subsection (3) of this section, the welfare and interests of the child shall be the paramount consideration of the court.

(5) Before registering a change of name under this section, the principal registrar may require the applicant to furnish such evidence as the principal registrar thinks appropriate as to the identity, age or marital status of the applicant or the person whose name is sought to be changed.

(6) A change of name under this section shall not be effective until registered by the principal registrar.

(7) Where the principal registrar is satisfied by such evidence as he may require—

(a) that a person has changed his name under the law of any place outside this State;

or

(b) that the name of a child has been changed under the law of the Commonwealth or of any place outside this State, or by order of any court of competent jurisdiction in this State,

he may register that change of name.

(8) In this section—

"change" in relation to a name, includes any addition, omission or substitution affecting the name.

**The register**

**54.** (1) The principal registrar shall maintain a register of changes of name made or registered under this Part.

(2) All instruments deposited in the General Registry Office, before the commencement of the *Statutes Amendment (Change of Name) Act, 1978*, and relating to change of name, shall, upon the commencement of that amending Act, be incorporated in the register.

**Notations to be made in registers**

**55.** Upon the registration of a change of name under this Part, the principal registrar shall cause appropriate notations to be made upon any entries in the registers relating to the birth or marriage of the person whose name has been changed.

PART X

MISCELLANEOUS

**Index to be kept**

**66.** (1) The principal registrar and every district registrar shall cause indexes of the registry books in his office to be made and kept with the other records of his office.

(2) Subject to subsection (3) of this section, every person shall be entitled at all reasonable hours to require those indexes to be searched, and to have a certified copy of, or extract from, any entry or entries in those register books under the hand of the principal registrar, the deputy registrar or district registrar on payment of the prescribed fees.

(3) The principal registrar, the deputy registrar or the district registrar may in any case he thinks fit, require the person seeking to have any such search made to disclose the reasons for the search and any other relevant matters and if the principal registrar, the deputy registrar or district registrar is of opinion that the search is required for improper reasons or that the person requiring the search has not proper reasons for making the search, he may refuse to allow the search or to issue any such certified copy or extract.

**Certified copies to be evidence**

**67.** (1) All certified copies of entries purporting to be under the hand and seal of the principal registrar, the deputy registrar or of any district registrar as aforesaid shall be received as *prima facie* evidence in any court of the birth, death, marriage or change of name, to which the same relates without any further or other proof of the entry.

(2) Upon a certificate being made by the principal registrar that the register of births, register of deaths, register of marriages or register of changes of name for any specified period, and for any particular district is lost or destroyed, then and in all such cases the certificate of the principal registrar, under his hand and seal, shall be received as evidence in any court of the matter to which the same relates without further proof being required.

**Correction of errors**

**68.** (1) If the principal registrar is satisfied by declaration, or in any other manner he thinks fit, that any particular in any register of births, register of deaths, register of marriages or register of changes of name is incorrect, he may correct the register, which correction shall be signed by him and marked with the date upon which the correction is made.

If it is practicable so to do, the principal registrar may require the person by whom the information for the registration was furnished to countersign the correction or to sign a document in writing certifying that the correction is necessary to be made.

(2) If the principal registrar is satisfied that by any judgment of any court of competent jurisdiction it has been adjudged by the court that any particular in any register of births, register of deaths, register of marriages or register of changes of name, is not in accord with the judgment of the court relating to any such particular, he may alter the register to accord with that judgment, which alteration shall be signed by him and marked with the date upon which the alteration was made.

(3) Notice of any such correction or alteration shall be given by the principal registrar to the district registrar having custody of the register in which the birth, death, marriage or change of name is registered, and the district registrar shall endorse on the relative entry in the register a copy of the correction or alteration made as aforesaid by the principal registrar.

(4) If any certified copy or extract from any entry so corrected or otherwise altered or added to pursuant to this Act, is issued by the principal registrar, the deputy registrar, or a district registrar, the copy shall be of the entry as so corrected, altered, or added to: Provided that in any case in which the principal registrar thinks fit the certified copy shall be a copy of the original entry showing all alterations and additions made thereon pursuant to this Act or any repealed Act.

\* \* \* \* \*

**Registrar may refuse to enter certain names in a register**

**68a.** (1) The principal registrar may—

(a) refuse to enter in the register of births any forename, or any surname that is a combined form of the surnames of both parents;

or

(b) refuse to enter in the register of changes of name any forename or surname,

that is obscene or frivolous.

(2) Where the principal registrar has refused to enter a name in a register pursuant to this section, he shall, by notice in writing addressed to the person by whom application was made for the entry of that name in the register, notify that person of his refusal to enter the name.

(3) A person may, within one month of receiving a notice under subsection (2) of this section, appeal in the prescribed manner to a local court of limited jurisdiction against the refusal by the principal registrar to enter a name in a register.

(4) In determining an appeal against the refusal by the principal registrar to enter in a register the name of a child, the welfare and interests of the child shall be the paramount consideration of the court.

**Forms**

**69.** (1) Strict compliance with the prescribed forms shall not be required, but substantial compliance shall be sufficient for the purposes of this Act.

(2) Nothing in this Act shall prevent the acceptance by the principal registrar, a district registrar or assistant district registrar of information, certificates, notices, or applications in accordance with any form legally in use immediately before the commencement of this Act, or prevent the registration of any birth or death by virtue of any such information, certificate, notice or application.

**Duty to supply information**

70. It shall be the duty of every person furnishing particulars for the purpose of this Act to furnish particulars which are correct to the best of his knowledge and belief and, except as provided by this Act, the principal registrar, district registrar, or assistant district registrar, as the case may be, shall not be bound to inquire as to the accuracy of any information so furnished.

**Penalties for failure to register**

71. Any person who—

(a) being a person obliged to register any birth, death or marriage, fails so to do within the time prescribed in this Act;

or

(b) obtains the registration of the birth of any child, or the death or marriage or change of name of any person, contrary to this Act,

shall be guilty of an offence.

Penalty: Division 8 fine.

**Penalty for burying body contrary to Act**

72. Any person who buries or otherwise disposes of any body in contravention of this Act, shall be guilty of an offence.

Penalty: Division 8 fine.

**Penalty for giving false information**

73. Any person who makes or causes to be made any false statement with respect to any particulars to be included in any register under this Act or in any information statement under this Act, shall be guilty of an offence unless he proves that the false statement was not made wilfully.

Penalty: Division 8 fine.

**Offences of registrars**

74. If the principal registrar, the deputy registrar or any district registrar or assistant district registrar—

(a) omits or refuses without reasonable cause to register any birth, death, marriage or change of name in accordance with the provisions of this Act;

or

(b) negligently registers false particulars in relation to any birth, death, marriage or change of name under this Act,

he shall be guilty of an offence.

Penalty: Division 8 fine.

**Destruction, alteration or forgery of register**

**75.** (1) Any person who—

(a) wilfully destroys or injures or causes to be destroyed or injured, any register book, or any part or certified copy of any part thereof;

or

(b) falsely makes or counterfeits or causes to be falsely made or counterfeited, any part of any such register book or certified copy thereof;

or

(c) wilfully inserts or causes to be inserted, in any register book or certified copy thereof, any false entry of any birth, death, marriage or change of name;

or

(d) wilfully gives any false certificate;

or

(e) certifies any writing to be a copy or extract of any register book, knowing the same to be false in any part thereof;

or

(f) forges or counterfeits the seal or signature of the principal registrar, the deputy registrar, or any district registrar,

shall be guilty of an offence.

Penalty: Division 5 imprisonment or division 5 fine.

(2) The principal registrar may impound and keep any certified copy of or extract from any registration of birth, death, marriage or change of name which has, subsequent to its issue, been altered or changed in any particular by any unauthorized person.

**Regulations**

**76.** The Governor may make regulations for and in relation to—

(a) the forms to be used in connection with this Act;

(b) the fees to be charged for the performance of the several acts, matters, and things provided for in this Act;

(c) the duties of district registrars and assistant district registrars;

or



- (d) such matters as are necessary or convenient to be prescribed for giving effect to this Act.

**Power to take declaration**

77. Any declaration required to be made under or pursuant to this Act may be taken before the principal registrar, the deputy registrar, or a district registrar or assistant district registrar, and the principal registrar, deputy registrar, and every district registrar and assistant district registrar is hereby authorized to take any such declaration.

**Power to remit fees**

78. The Minister may remit the whole or any part of any fee required to be paid pursuant to this Act.

**Power to direct retention of fees**

79. The Minister may from time to time by general or special direction, direct that the whole or any part of any fees paid pursuant to this Act to any district registrar or assistant district registrar may be retained by the district registrar or assistant district registrar. Any such direction may be revoked or varied by the Minister.

**Summary proceedings**

80. All proceedings for an offence against this Act shall be disposed of summarily.

SCHEDULES

THE FIRST SCHEDULE

ACTS REPEALED.

Number and Year	Title of Short Title of Act	Extent of Repeal
No. 1755 of 1926 No. 2293 of 1936	Notification of Births Act, 1926 Statute Law Revision Act, 1936	The whole So far as relates to the Notification of births and deaths.
No. 2335 of 1936	Births and Deaths Registration Act, 1936	The whole
No. 2325 of 1936 No. 21 of 1940	Marriage Act, 1936-1961 Births and Deaths Registration Act Amendment Act, 1940	The whole The whole
No. 18 of 1941 No. 11 of 1942	Marriage Act Amendment Act, 1941 Births and Deaths Registration Act Amendment Act, 1942	The whole The whole
No. 7 of 1944 No. 44 of 1947	Marriage Act Amendment Act, 1944 Births and Deaths Registration Act Amendment Act, 1947	The whole The whole
No. 21 of 1950 No. 21 of 1957 No. 47 of 1959	Marriage Act Amendment Act, 1950 Marriage Act Amendment Act, 1957 Births and Deaths Registration Act Amendment Act, 1959	The whole The whole The whole
No. 30 of 1960	Births and Deaths Registration Act Amendment Act, 1960	The whole
No. 31 of 1961 No. 47 of 1962	Marriage Act Amendment Act, 1961 Births and Deaths Registration Act Amendment Act, 1962	The whole The whole

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**APPENDIX 1**

## Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of The Public General Acts of South Australia 1837-1975 at page 525.

Long title:	amended by 69, 1980, s. 5
Section 4:	substituted by 69, 1980, s. 6
Section 5:	definition of "christian name" repealed by 69, 1980, s. 7
Section 6(2):	repealed by 77, 1988, s. 3
Section 7:	substituted by 69, 1980, s. 8
Section 11:	repealed by 69, 1980, s. 9; inserted by 77, 1988, s. 4
Section 13:	repealed by 69, 1980, s. 10
Section 14(3):	repealed by 69, 1980, s. 11
Section 15(1):	amended by 69, 1980, s. 12(a)
Section 15(2):	repealed by 69, 1980, s. 12(b)
Section 16:	amended by 69, 1980, s. 13
Section 17(2):	repealed by 69, 1980, s. 14
Section 19(3):	amended by 77, 1988, s. 5
Section 20(1):	amended by 69, 1980, s. 15(a), (b)
Section 20(2):	repealed by 69, 1980, s. 15(c)
Section 21:	amended by 69, 1980, s. 16; substituted by 77, 1988, s. 6
Sections 22 - 24:	repealed by 69, 1980, s. 17
Section 25(1):	amended by 69, 1980, s. 18(a)
Section 25(2):	amended by 69, 1980, s. 18(b)
Section 25(3):	amended by 69, 1980, s. 18(c)
Section 25(4):	amended by 69, 1980, s. 18(d)
Section 27:	repealed by 69, 1980, s. 19
Section 28:	repealed by 77, 1988, s. 7
Section 29(1):	amended by 69, 1980, s. 20(a)
Section 29(2):	repealed by 69, 1980, s. 20(b)
Section 31(1):	amended by 69, 1980, s. 21(a), (b)
Section 31(2):	repealed by 69, 1980, s. 21(c)
Section 39(1):	amended by 69, 1980, s. 22
Section 39(2):	amended by 77, 1988, s. 8
Section 40(1):	amended by 69, 1980, s. 23
Section 40(2):	amended by 77, 1988, s. 9
Section 44(2):	repealed by 69, 1980, s. 24
Section 47(2):	amended by 69, 1980, s. 25
Section 51(2):	repealed by 69, 1980, s. 26

Part IX comprising ss. 53 - 55 and heading inserted by 69, 1980, s. 27

Section 66(2):	amended by 69, 1980, s. 28
Section 67(1):	amended by 69, 1980, s. 29(a)
Section 67(2):	amended by 69, 1980, s. 29(b)
Section 68(1):	amended by 69, 1980, s. 30(a)
Section 68(2):	amended by 69, 1980, s. 30(b)
Section 68(3):	amended by 69, 1980, s. 30(c)
Section 68(5):	repealed by 69, 1980, s. 30(d)
Section 68a:	inserted by 69, 1980, s. 31
Section 71:	amended by 69, 1980, s. 32; 77, 1988, s. 10
Section 72:	amended by 77, 1988, s. 11
Section 73:	amended by 77, 1988, s. 12
Section 74:	amended by 69, 1980, s. 33; 77, 1988, s. 13
Section 75(1):	amended by 69, 1980, s. 34(a); 77, 1988, s. 14
Section 75(2):	amended by 69, 1980, s. 34(b)
Section 76:	amended by 69, 1980, s. 35
Second - sixteenth schedules:	repealed by 69, 1980, s. 36
Nineteenth schedule:	repealed by 69, 1980, s. 36

**APPENDIX 2**

## Divisional Penalties

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50

*Note: This appendix is provided for convenience of reference only.*